

APR 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALVARO RODRIGUEZ,

Plaintiff - Appellant,

v.

STATE OF CALIFORNIA,

Defendant - Appellee.

No. 08-15207

D.C. No. CV-07-04126-SI

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
Susan Yvonne Illston, District Judge, Presiding

Submitted April 13, 2009^{**}

Before: GRABER, GOULD, and BEA, Circuit Judges.

Alvaro Rodriguez, a former California state prisoner, appeals pro se from the district court's judgment dismissing as *Heck*-barred his 42 U.S.C. § 1983 action

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

challenging two misdemeanor convictions from 1993. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Sacks v. Office of Foreign Assets Control*, 466 F.3d 764, 770 (9th Cir. 2006). We affirm.

The district court properly dismissed Rodriguez's action because a judgment in Rodriguez's favor would necessarily imply the validity of his convictions, and Rodriguez failed to allege that his convictions were reversed, expunged, or otherwise called into question. *See Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994).

Rodriguez's remaining contentions are unpersuasive.

AFFIRMED.